

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

x-----x
MOHAMED BARY,)
Plaintiff.)
)
-against-)
)
DELTA AIRLINES, INC.)
Defendant.)
x-----x

Case No. CV-02-5202

PREPOSED PRETRIAL
ORDER

(Tragor, J) (Chrein, MJ)

At a pretrial conference held before the Honorable David G. Trager, and attended by counsel, the following matters were discussed and agreed to; and are hereby ordered:

1. **General:** the parties recognize that this pretrial order controls the subsequent course of the action unless the order is modified by consent of the parties and the court, or by order of the court to prevent manifest injustice.
2. **Parties And Counsel:** Names of all parties and names, addresses and telephone numbers of their respective attorneys are as follows:

Plaintiff: Mohamed Bary

Plaintiff's Attorney: Sanjay Chaubey, Esq.

Address: Empire State Building
350 Fifth Avenue, Suite 5013
New York, NY 10118

Phone: (212) 563-3223

Fax: (212) 563-4534

Defendant: Delta Airlines, Inc.

Defendant's Attorney: Gallagher Gosseen Faller & Crowley

Address: 1010 Franklin Avenue
Suite 400
Garden City, NY 11530

Phone: (516) 742-2500
Fax: (516) 742-2518

3. **Jurisdiction**: This court has original jurisdiction over this action pursuant to 28 USC §1332 in that such jurisdiction is founded upon the diversity of citizenship between the parties to this action and the matter in controversy exceeds, exclusive of interest and costs, the sum of Seventy five thousand (\$75,000.00) and 28 USC § 1331, 1343 and 1367 plaintiff actions for declaratory, injunctive and or minatory relief is authorized by 28 USC § 1343(a)(VI), 2201 and 2202. § 1391(b) as substantial parts of events giving rise to plaintiff's claim occurred within this district.
4. **Uncontested Facts**: The uncontested facts are that plaintiff traveled on November 8, 2001 on defendant airline from New York to Denver, CO on Delta flight number DL-0405. It is also undisputed that plaintiff was carrying gems and jewels in the value of approximately \$373,186.81 with him. Plaintiff was stopped at the pre-flight security check and was forced to book the gems and jewels in his checked-in luggage resulting into loss of merchandise at arrival at the Denver airport. The incident was reported to the Denver Police Department at the first opportunity.
5. **Liability Claims and Defenses**: Plaintiff claims loss of precious gems and jewels in the amount of \$373,186.81 against the defendants for their negligence by them or by their agent or employees under the doctrine of respondent superior. Plaintiff also claims declaratory, injunctive and monitory relief against defendant, Delta Airlines, Inc. for unlawful discrimination.

Defendant sought to move a motion seeking dismissal of plaintiff's claims against defendant particularly discrimination claims against the defendant, Delta Airlines, Inc.

6. **Damages And Other Relief:** Plaintiff claims punitive damages in an amount to be determined at trial that would punish defendant for its willful, wanton, and reckless conduct and that would effectively deter defendant from engaging in similar conduct in future. Besides this, plaintiff seeks other reliefs including pre-judgment interest and reasonable attorney fees as detailed in the amended complaint. Plaintiff also claims compensatory and punitive damages on account of economic loss, humiliation, embarrassment, emotional distress and deprivation of his rights to enter and enforce a contract and to travel as a passenger in air transportation regardless of his race, color, ethnicity, alienage, ancestry or national origin.
7. This is a non-jury case and the trial will take approximately six days; three days for the plaintiff's case three days for the defense.
8. Parties have not consented to the trial of the case by a magistrate judge.
9. List of the names and addresses of all witnesses, including who will be called only for impeachment or rebuttal purposes.

Mohamad Bary , residing at: 4282 Nafzger Drive
Gahanna, OH 43230.

Vera Hall , residing at: 400 Herkimer Street
Brooklyn, New York 11213.

James Wlodarczyk, residing at: 6 Bedford Avenue
Garden City Park, New York 114040

10. Deposition testimony of the aforesaid witnesses may be offered in its case in chief with any cross objection by other party.
11. A scheduled listing Exhibits to be offered in evidence is yet not complete for the reason defendants have recently provided certain documents after the order of the magistrate judge. Exhibits also need to be admitted by Stipulation and if not the parties that will be offering them is to be ascertained.
12. All exhibits must be premarked for the trial and exchanged with the other parties at least 10 days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

Dated: September 5, 2008
New York, NY

David G. Trager, Judge
United States District Judge

Approved and Consented To:

Sanjay Chaubey, Esq.
Attorney for Plaintiff, Mohamad Bary

Gallagher Gosseen Faller & Crowley
Attorney for Defendant, Delta Airlines